

MINUTES

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

11/24/2006 4:30 pm

SUE BEITIA, CLERK

CASE NUMBER: CRIMINAL 04-00284JMS-01

CASE NAME: United States of America vs. Carlos Emilio Becerrada

ATTYS FOR PLA: Michael K. Kawahara

ATTYS FOR DEFT: Emmanuel G. Guerrero

U.S.P.O.: Kevin Teruya

JUDGE: J. Michael Seabright

REPORTER: Cynthia Fazio

DATE: 11/24/2006

TIME: 9:15 - 10:00

COURT ACTION: Sentencing to Counts 1 and 2 of the Indictment: Government's Motion for Downward Departure.

Defendant present in custody with counsel Emmanuel Guerrero.

Judge Seabright disclosed that he was employed at the U. S. Attorney's Office until May 16, 2005. Judge Seabright explained Canon 3 (C) (1) and 3 (C) (e) of the Code of Conduct for United States Judges and 28 U.S.C. Section 455. Judge Seabright disclosed that he reviewed the entire case file in this matter and had no recollection, and did not believe, that he had contact with or participated in this matter while employed at the U. S. Attorney's Office. Assistant U. S. Attorney Michael Kawahara confirmed that Judge Seabright did not participate in this matter while employed at the U. S. Attorney's Office. Counsel for defendant Emmanuel Guerrero and defendant stated that they had no objection to Judge Seabright presiding over this matter. The Court therefore found no basis for disqualification under the canon of ethics or he laws of the United States.

Defendant informed the Court that he is willing to waive 455(a).

Court found no basis for disqualification under 455(b)(3).

Government's Motion for Downward Departure GRANTED.

Allocution by the defendant.

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Imprisonment 14 years as to each of Counts 1 and 2 of the Indictment, with both counts to run concurrently with each other..

Supervised Release 6 years as to each of Counts 1 and 2 of the Indictment, with both counts to run concurrently with each other.

RECOMMENDATION: 1) Terminal Island, CA. 2) Lompoc, CA.

That the defendant participate in the 500 Hour Comprehensive Drug Treatment Program.

That the defendant participate in educational training program.

1. That the defendant shall abide by the standard conditions of supervision.
2. That the defendant not commit any crimes, federal, state, or local (mandatory condition).
3. That the defendant not possess illegal controlled substances (mandatory condition)
4. That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of commencement of supervision and at least two drug tests thereafter but no more than 15 valid drug tests per month during the terms of supervision (mandatory condition).
5. That the defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
6. That the defendant shall cooperate in the collection of DNA as directed by the probation officer.
7. That the defendant shall participate in and comply with substance abuse treatment which includes drug and alcohol testing in a program approved by the Probation Office. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.
8. That the defendant shall submit his person, residence, place of employment, or vehicle to a search conducted by the U.S. Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other resident that

the premises may be subject to search pursuant to this condition.

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No fine imposed.

Special Monetary Assessment \$200.

Advised of rights to appeal.

MITTIMUS: Forthwith.

Submitted by: Dottie Miwa, Courtroom Manager